

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of	)	
	)	
Revision of Part 2 of the	)	ET Docket No. 94-45
Commission's Rules Relating to the	)	RM-8125
Marketing and Authorization of	)	
Radio Frequency Devices	)	

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**REPLY COMMENTS OF THE CONSUMER ELECTRONICS GROUP  
OF THE ELECTRONIC INDUSTRIES ASSOCIATION**

**I. INTRODUCTION**

The Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") hereby replies to the comments that were filed in response to the Commission's Notice of Proposed Rulemaking<sup>1</sup> ("Notice") in the above-captioned proceeding on or about September 6, 1994.<sup>2</sup> In its Notice, the Commission solicited comment on a number of proposed changes in the marketing rules and equipment authorization procedures applicable to radio frequency ("RF") devices. As the initial comments filed by EIA/CEG and others overwhelmingly demonstrate, the Commission's proposed marketing rules are essentially sound and, with the modifications proposed by EIA/CEG, should be promptly adopted by the Commission.

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<sup>1</sup> See Revision of Part 2 of the Commission's Rules Relating to the Marketing and Authorization of Radio Frequency Devices, 9 FCC Rcd 2702 (1994).

<sup>2</sup> A list of the parties filing comments appears as an Appendix to these reply comments. The abbreviations of the parties' names set forth in the Appendix are used in this reply.

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## **II. THE COMMENTS DEMONSTRATE THE NEED FOR CHANGE IN THE MARKETING RULES APPLICABLE TO RF DEVICES.**

All of the parties filing comments in this proceeding have expressed support for the Commission's proposal to streamline and add consistency to the marketing rules that now apply to RF devices.<sup>3</sup> No one has questioned the need for such revisions.<sup>4</sup> Indeed, as numerous parties have pointed out, adoption of the proposed rules will benefit both manufacturers and purchasers of RF devices. The proposed rules will benefit manufacturers by enhancing their ability to market and demonstrate RF devices at trade shows and other exhibitions, without causing harm to any licensed services. The proposed rules will similarly benefit consumers by facilitating the introduction of new and improved products and services by allowing manufacturers to advertise and market RF devices that have not yet been authorized or found to be in compliance with the Commission's rules, subject to certain precautionary conditions.

The marketing rules proposed by the Commission's Notice, however, fall short in a number of respects. First and foremost, as EIA/CEG pointed out in its initial comments, Section 2.803(e) of the new rules should be amended so as to make clear that RF devices operated at trade shows or other exhibitions that ultimately will be authorized under Part 15 of the Commission's rules are exempt from any further licensing requirements.<sup>5</sup> More specifically,

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<sup>3</sup> Alcatel Comments at 2-3; AMSC Comments at 1-2; AT&T Comments at 1-2; CBEMA Comments at 1-2; Ericsson Comments at 1-2; IBM Comments at 3-4; Johnson Comments at 2; MSTV Comments at 2; NAB Comments at 2-3; TIA Comments at 1-3; Uniden Comments at 2.

<sup>4</sup> MSTV, however, has questioned the Commission's proposal to permit the pre-sale and on-site testing of unauthorized equipment. See MSTV Comments at 6.

<sup>5</sup> See EIA/CEG Comments at 5-6. See also TIA Comments at 6-7.

the rules should make clear that the exhibitors of such devices are not required to obtain experimental station licenses or special temporary authorization before operating such equipment for demonstration purposes at industry trade shows or exhibitions. This clarification is needed to ensure that the proposed authority conferred by Section 2.803(e)(2) is not rendered meaningless by Section 2.803(e)(6).

The Commission should reject AT&T's suggestion that only "unintentional" radiators be relieved of the obligation to obtain licenses before being operated at trade shows.<sup>6</sup> Divergent treatment of intentional and unintentional radiators would defeat one of the major purposes of the proposed marketing rules, *i.e.*, to streamline and add consistency to the marketing rules applicable to RF devices. Because many of the devices marketed and displayed at trade shows and exhibitions are intentional radiators -- for example, cordless telephones, wireless speakers, and low-power video distribution devices -- retaining a licensing requirement for some equipment would almost be as cumbersome as requiring licenses for all devices.<sup>7</sup> AT&T's proposal would thus work at cross-purposes with the proposed marketing rules.

Although AT&T speculates about the potential interference that might be caused by intentional radiators, it does not offer any evidence which suggests that actual harm would occur. Indeed, because any potential interference would occur at the site of a trade show or exhibition, it would be highly unlikely to affect the public. Absent any demonstrable harm to

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<sup>6</sup> AT&T Comments at 3. Because intentional radiators are allowed to emit higher radio frequency energy than unintentional radiators, AT&T argues that there is a greater potential for interference.

<sup>7</sup> Retaining a licensing requirement would add complexity to the planning process, consume time and resources, and preclude last-minute additions to an exhibitor's demonstrations at a trade show.

the public, there is no justification for adopting different requirements for intentional and unintentional radiators.

Second, as explained by EIA/CEG in its initial comments, proposed Sections 2.803(b) and (d) should be consolidated to permit the announcement, offering for sale, and conditional sale of unauthorized or noncompliant RF devices as long as delivery is contingent on authorization or compliance.<sup>8</sup> Although approaching the issue from a somewhat different perspective, Alcatel has similarly called for a more simplified regulatory regime. In particular, it has proposed that the Commission allow all RF devices to be announced, advertised, displayed, activated at trade shows and exhibitions, and offered for sale, "provided final delivery to the buyer or centers of distribution does not occur before compliance with applicable equipment authorization procedures."<sup>9</sup> The Commission should simplify its proposed rules accordingly. Although MSTV has expressed concern about the enforcement problems associated with the pre-sale of unauthorized equipment,<sup>10</sup> it has not identified any abuses by the manufacturers of RF devices that would justify such a concern. The members of EIA/CEG are fully aware of their obligations and will continue to comply with the Commission's marketing rules, as they have in the past.

Third, as EIA/CEG has suggested, the notice required by Section 2.803(c) should be amended to conform with the other provisions of this section.<sup>11</sup> More specifically, the

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<sup>8</sup> EIA/CEG Comments at 6-7.

<sup>9</sup> Alcatel Comments at 3.

<sup>10</sup> MSTV Comments at 6.

<sup>11</sup> EIA/CEG Comments at 6-7.

"conspicuous notice" prescribed by Section 2.803(c) should be revised to reflect the sales activities contemplated by Sections 2.803(b) and (d). This change, which is editorial rather than substantive in nature, should not be controversial. Fourth, for the reasons set forth in EIA/CEG's initial comments, Section 2.803(e)(2) should be amended to permit the demonstration of RF devices not only at "trade shows," but also at "exhibitions."<sup>12</sup>

Given the broad support for changes in the existing marketing rules, EIA/CEG urges the Commission to act promptly and, if at all possible, before the January 1995 Consumer Electronics Show. The sooner the new marketing rules go into effect, the sooner the consumer electronics industry will be able to introduce new products and technologies to the marketplace. Smaller entities that lack national sales organizations will particularly benefit from the prompt adoption of new marketing rules as they find it easier to introduce innovative, cutting-edge technologies to a wider audience at industry trade shows and exhibitions. Such broader exposure will enhance competition and stimulate the demand for new goods and services. The public interest will thus be served by the prompt adoption of these noncontroversial marketing rules. The Commission should proceed accordingly.

### **III. THE COMMISSION SHOULD DECLINE THE INVITATION OF OTHER PARTIES TO EXPAND THE SCOPE OF THIS PROCEEDING.**

Because the public interest will be served by the prompt adoption of new marketing rules, the Commission should act expeditiously in this proceeding. It should not allow itself to be sidetracked or slowed down by proposals that have little to do with the noncontroversial marketing rules proposed by the Notice.

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<sup>12</sup> Id. at 8.

IBM, for example, has suggested that personal computers should no longer be subject to the certification process, but rather to the verification procedures applicable to Class A devices. In support of its position, IBM argues that the certification process is burdensome and that the Commission's resources should be used to enforce its rules, rather than process applications.<sup>13</sup> Although EIA/CEG agrees with much of the rationale underlying IBM's proposal and sympathizes with IBM's concerns about the certification process, the public interest would be better served by considering IBM's proposal in a separate proceeding. A proposal such as IBM's requires careful consideration and analysis. To do so in this proceeding would needlessly delay the implementation of the noncontroversial marketing rules proposed by the Commission and supported by the commenting parties. Thus, if the Commission is inclined to consider IBM's proposal, it should do so in the context of a separate proceeding.

MSTV has similarly raised an issue that, while worthy of consideration, should not be allowed to delay the adoption of the Commission's proposed marketing rules. Specifically, MSTV has expressed concern about the impact of the increasing number of RF devices on licensed services.<sup>14</sup> EIA/CEG is sensitive to MSTV's concerns and does not oppose an inquiry to address the potential interference issues identified by MSTV. This proceeding, however, is not the place to do so. If the Commission shares MSTV's concerns about interference, an inquiry should be initiated to address this question.

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<sup>13</sup> IBM Comments at 5-11.

<sup>14</sup> MSTV Comments at 2-3.

#### IV. CONCLUSION

For all of the reasons set forth above and in EIA/CEG's initial comments, the Commission should promptly adopt its proposed marketing rules for RF devices, with the modifications proposed by EIA/CEG.

Respectfully submitted,

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October 4, 1994

## **Appendix**

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Association for Maximum Service Television, Inc. ("MSTV")

AT&T Corp. ("AT&T")

Computer and Business Equipment Manufacturers Association ("CBEMA")

Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG")

The Ericsson Corporation ("Ericsson")

E.F. Johnson Company ("Johnson")

International Business Machines Corporation ("IBM")

National Association of Broadcasters ("NAB")

Telecommunications Industry Association ("TIA")

Uniden America Corporation ("Uniden")



### **CERTIFICATE OF SERVICE**

I, Joyce Fleming, do hereby certify that a true and correct copy of the foregoing Reply of the Consumer Electronics Group of the Electronic Industries Association in ET Docket No. 94-45 was sent, by hand or via first class mail, on this date, October 4, 1994, to the following:

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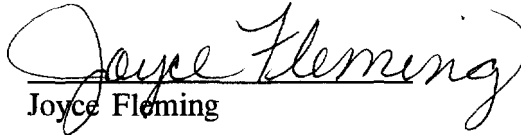
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